



## New obligations targeting human trafficking for employers in California – and across the US

### Employment Alert

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As of January 1, 2020, many California employers operating in the hospitality, transportation, healthcare, and adult entertainment sectors have new obligations targeted at preventing human trafficking.

These obligations arise from two bills approved by California Governor Jerry Brown in September 2018 which require training and notice postings for employers in certain industries that might be more vulnerable to human trafficking, particularly the hotel and motel industry. Portions of that legislation are now in effect. As a result, employers should carefully determine whether they need to provide these trainings or notices, and if so, how.

#### **Training for hotel and motel businesses**

SB 970 added Section 12950.3 to the California Government Code and amended the Fair Employment and Housing Act. Aimed specifically at hotel and motel employers, it requires at least 20 minutes of training and education related to human trafficking awareness for employees who are likely to interact or come into contact with victims of human trafficking.

Among the jobs potentially affected by these requirements: reception, housekeeping, and roles that provide such customer-facing duties as assisting in moving a customer's possessions.

As of January 1, 2020, all employees employed as of July 1, 2019 should have been provided with such training and education regarding human trafficking awareness. Going forward after January 1, 2020, hotel and motel employers must provide this 20-minute training to employees once every two years, and within six months of the employee's hire in that role.

This training must include:

1. the definition of human trafficking and commercial exploitation of children
2. guidance on how to identify victims or those at risk
3. an explanation of the difference between labor and sex trafficking, or the difference between the use of force, fraud, or coercion to compel a person into labor and commercial sex acts against his or her will, specific to the hotel sector
4. guidance on the role of hospitality employees in reporting and responding to human trafficking and
5. the contact information of appropriate agencies.
6. Businesses that fail to comply with this section may face an order requiring compliance from the Department of Fair Employment and Housing.

### **Notice posting requirements affect an array of sectors**

Governor Brown also approved AB 2034, which amends Section 52.6 of the California Civil Code to require certain businesses to post compliant notices in a conspicuous place, either near a public entrance or at a place in clear view of both employees and the public where other similar notices are posted. The bill identifies the specific language that must be included in the posted notice.

Affected businesses include:

- on-sale general public premises licensees under the Alcoholic Beverage Control Act
- adult or sexually oriented businesses
- primary airports
- intercity passenger rail or light rail stations
- bus stations
- privately owned truck stops
- emergency rooms within general acute care hospitals
- urgent care centers
- farm labor contractors
- privately operated job recruitment centers
- roadside rest areas
- businesses or establishments that offer massage or bodywork services for compensation and
- hotels, motels, and bed and breakfast inns.

These notices are also subject to specific formatting requirements and must be printed in English, Spanish, and one other language that is most widely spoken in the county where the business is located.

AB 2034 also requires that these enumerated businesses provide all employees who are likely to interact or come into contact with victims of human trafficking or who are likely to receive, in the course of their employment, a report from another employee about suspected human trafficking with a 20-minute training by January 1, 2021.

The requirements for this training are slightly different from those for AB 970. This training must include:

1. the definition of human trafficking, including sex trafficking and labor trafficking
2. myths and misconceptions about human trafficking
3. physical and mental signs to be aware of that may indicate that human trafficking is occurring
4. guidance on how to identify individuals who are most at risk for human trafficking
5. guidance on how to report human trafficking to the appropriate agencies and

6. protocols for reporting human trafficking when on the job.

Businesses that fail to comply with these requirements may face a civil penalty of \$500 for the first offense and \$1,000 for each subsequent offense.

### **Action steps for employers in California**

Businesses affected by the training and notice posting requirements are taking steps to provide the appropriate 20-minute training to their employees as well as with the required information about human trafficking under both SB 970 and AB 2034.

Employers operating in the enumerated businesses under AB 2034 are also taking steps to provide employees with the required 20-minute training and are posting the mandatory notice about human trafficking, as provided, in English, Spanish, and at least one other language most widely spoken in your county by January 1, 2021.

### **Action steps for employers across the US**

Entities whose business involves interaction with large numbers of the public – for instance, in the hospitality sector, in the transportation sector and in hospitals – should make themselves aware of state and local laws (and pending laws) that address human trafficking training and notices. A number of states have pending legislation intended to impose requirements similar to California's, so it is important to stay informed.

To date, the following states have pending legislation:

- Iowa (training requirements)
- Massachusetts (notice and training requirements)
- New York (training requirements)
- South Dakota (training requirements)
- Vermont (notice and training requirements)

The following states have training requirements:

- Connecticut
- Florida
- Illinois (as of June 1, 2020)
- Minnesota
- New Jersey
- North Dakota

And the following states have notice posting requirements:

- Alabama
- Alaska (only in Anchorage, Alaska)
- Arkansas
- Connecticut
- Florida
- Georgia
- Hawaii
- Kansas (voluntary)
- Louisiana
- Maine
- Maryland
- Michigan
- Minnesota
- Missouri
- Montana

- Nebraska
- New Jersey
- New Mexico
- New York
- North Carolina
- Ohio (voluntary)
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee (voluntary)
- Texas
- Virginia
- West Virginia

Most of these states require that the human trafficking notices be posted in hotels and motels, as well as places of public transportation, like bus stations, and at adult-oriented businesses. Some states, like Alaska, are expansive and even require notices be posted in restaurants, or Georgia, which requires postings for farm labor contractors and day haulers.

Other states, however, require notices be posted at very limited locations. Hawaii, for example, only requires notices for establishments that hold specific liquor licenses, provide massage therapy services, or employ erotic or nude massagers or dancers. Virginia and Nebraska only require notices be posted at truck stops and strip clubs. It is therefore critical that employers check their local laws on human trafficking to determine whether their business falls into a category requiring training or notice postings, especially if you operate in one of the states listed above.

Learn more about the implications of these developments by contacting your DLA Piper Employment lawyer.

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